UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,384	07/19/2006	Martin Weber	12810-00328-US	3855

23416 7590 12/01/2008

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

EXAMINER	
KAUCHER, MARK S	

ART UNIT	PAPER NUMBER
4131	

MAIL DATE	DELIVERY MODE
12/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/586,384	WEBER ET AL.	
	Examiner	Art Unit	
	MARK S. KAUCHER	4131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-25* is/are pending in the application.

4a) Of the above claim(s) *1-11* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-25* is/are rejected.

7)☒ Claim(s) *21 and 25* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/19/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 21 and 25 objected to because of the following informalities:

In claims 21 and 25, “obtainable using” is not idiomatic English.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. The term "improved" in claim 23 is a relative term which renders the claim indefinite. The term "improved" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 12-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorrestijn et al. (US 5,948,858).

As to claims 12-17, Dorrestijn et al. discloses a polymer composition comprising (see examples1-6):

A) A polyamide (referred to as (B), see col. 6, lines 12-14), preferably Nylon 6 (See col. 6, lines 28-30) with an amino end group (see col. 2, lines 2-10). See col 4, lines 11-54 for a general description of the polyamides.

B) An ABS graft copolymer (referred to as (A), see col. 6, lines6-11). See col 2, line 58 through col. 4, line 10 for a general description of the graft copolymers.

C) A compatible agent consisting of styrene, maleic anhydride, and acrylonitrile (referred to as (C), see col. 6, lines 15-26 and for additional details, see col. 4, line 55 through col. 5, line 27) comprising:

c1) A styrene (vinyl aromatic monomer) content if 67%. Calculated from the ratio disclosed on col. 6, lines 15-18.

c2) Maleic anhydride (units derived from a monomer, which comprises a functional group that can react with the end groups of the polyamide above). See col. 6, lines 15-18 and for additional details, see col. 4, lines 55-66.

c3) Acrylonitrile (units derived from a monomer, which comprises no functional groups that can react with the end groups of the polyamide above). See col. 6, lines 15-18 and for additional details, see col. 4, lines 55-66.

E) Phthalic anhydride (referred to as (D), a low-molecular weight compound, which comprises a dicarboxylic anhydride group). See col. 6, lines 27-28 and for additional details, see col. 1 line 61 through col. 2, line 57.

Groups D and F are optional and are not required as disclosed in claim 1.

Dorrestijn et al. is silent on two graft copolymers of ABS that differ at least by 5% by weight from one and another in their rubber contents being present.

However, it would have been obvious to one with ordinary skill in the art at the time the invention was made by modifying the polymer composition of Dorrestijn et al. via using two graft copolymers of ABS that differ at least by 5% by weight from one and another in their rubber contents being present by Dorrestijn et al. because it has been held that “it is prima facie obvious to combine two compositions each taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.” MPEP § 2144.06 I.

4. As to claims 18 and 19 that further define the optional component F and apply only , Dorrestijn et al. is silent on the additives: silicone oil or stearate, however, the limitations of these claims apply only when the optional ingredient is included.

5. As to claim 20, Dorrestijn et al. discloses a process for preparing the polymer composition via mixing the components A, B, C, and D (referred to as A, B, C, and E by applicant) together to form the polymer composition. See col. 6, lines 29-45.

Dorrestijn et al. is silent on a first step of mixing a portion of the graft copolymer and the polyamide. Afterwards, a second step is applied via adding the rest of the components together into the mixture.

However, it would have been obvious to one with ordinary skill in the art at the time the invention was made by modifying the process via first mixing a portion of the graft copolymer and the polyamide together first, since changes in the sequence of adding ingredients have been held to establish *prima facie* obviousness. See MPEP § 2144.04 IV C.

6. As to claims 21 and 22, Dorrestijn et al. discloses using the polymer composition to form a “moulded part" (molding, see col. 5, lines 43-59).

7. As to claims 23 and 24, Dorrestijn et al. discloses the “moulded part” (molding, see col. 5, lines 43-59) as applied above to claim 21.

Dorrestijn et al. is silent on the “improved frictional properties" and the ΔC_F properties of the molding.

However, as noted above, the molding of Dorrestijn et al. is identical to the presently claimed, and identical compositions must have identical properties. Accordingly, the properties of instant claims 23 and 24 are assumed to be inherent to the composition of Dorrestijn et al. Since the PTO does not have proper means to conduct experiments, the burden of proof is now shifted to applicants to show other wise. **In re Best**, 562 F. 2d 1252, 195 USPQ 430 (CCPA 1977); **In re Fitzgerald**, 205 USPQ 594 (CCPA 1980).

8. As to claim 25, Dorrestijn et al discloses a “molding part” (molding, see col. 5, lines 43-59) as applied to claim 22 above. The molding is used in “dashboards, interior door panels and centre consoles of motorcars” (motor-vehicle-interior parts, see col. 5, lines 43-59).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK S. KAUCHER whose telephone number is (571)270-7340. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-275-5007. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/
Supervisory Patent Examiner
Art Unit 4131

/MARK S KAUCHER/
Examiner, Art Unit 4131